GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:2505
ANSWERED ON:16.12.2008
IMPLEMENTATION OF PROBATION OF OFFENDERS ACT,1958
Borkataky Shri Narayan Chandra;Kurup Adv. Suresh;Reddy Shri Suravaram Sudhakar;Singh Shri Ganesh

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Government has any mechanism to reduce overcrowding of prisons in the country;

(b) if so,the details thereof;

(c) whether the Government has implemented the Probation of Offenders Act,1958 to reduce overcrowding in prisons;and

(d) if so,the total number of cases under trial/pending for trial under the said Act in the country?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS(DR. SHAKEEL AHMAD)

(a) & (b): `Prisons` is a State subject under List II of the Seventh Schedule to the Constitution and Prison Administration is the responsibility of the State Governments.However,in order to improve the condition of prisons and prisoners,the Central Government started a non-plan scheme in 2002-03 for construction of additional prisons/barracks to reduce overcrowding,repair and renovation of existing prisons,improvement in sanitation and water supply & living conditions of prisoners as also accommodation for prison staff. The scheme is being implemented over a period of five years with a total outlay of R.s 1800 crore on cost sharing basis in the ratio of 75:25 between the Central and State Governments respectively.The scheme has since been extended upto 31.3.2009.

With a view to reduce the overcrowding in jails,the Government of India has also taken following measures:

(i) amendment in Code of Criminal Procedure,1973 by inserting a new article viz 436A which provide that where an undertrial Prisoner other than the one accused of an offence for which death has been prescribed as one of the punishments,has been under detention for a period extending to one-half of the maximum period of imprisonment,provided for the alleged offence,he should be released on his personal bond,with or without sureties.It also provides that in no case will an undertrial prisoner be detained beyond the maximum period of imprisonment for which he can be convicted for the alleged offence.Further,Section 436 (1) of the Code of Criminal Procedure,1973 has also been amended to make a mandatory provision that if the arrested person is accused for a bailable offence and he is an indigent and cannot furnish surety,the Court shall release him on his execution of a bond without sureties.

(ii) Introduction of scheme of Plea Bargaining

Considering the demand of various States for granting further financial assistance for construction of new jails/additional barracks so as to address the problem of overcrowding,the Ministry of Home Affairs has initiated the process of formulating second phase of the scheme of modernization of prisons.Necessary steps are being taken in this regard in consultation with the Ministry of Finance.

(c) Yes sir.The Probation of Offenders Act, 1958 is implemented by the State Governments/Union Territories.

(d) The data relating to cases of undertrial/pending trial under the Probation of Offenders Act is not maintained centrally by Government of India.